

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

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STATE OF OKLAHOMA, et al.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 4:05-cv-00329-GKF-PJC
	)	
TYSON FOODS, INC., et al.	)	
	)	
Defendants.	)	
	)	

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**REPLY IN SUPPORT OF DEFENDANTS' MOTION TO EXCLUDE EXPERT  
TESTIMONY BASED ON BACTERIAL ANALYSES CONDUCTED IN VIOLATION  
OF EPA, USGS AND OKLAHOMA STANDARDS (Dkt. No. 2090)**

Exhibit 8



**Environmental  
Microbiology  
Laboratory, Inc.**

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Report for:

**Mr. Roger Olsen**  
**CDM (Camp Dresser & McKee, Inc.)**  
1331 17th Street  
Suite 1200  
Denver, CO 80202-1562

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Regarding: Project: 31509-44558-TSK3.LITTER  
EML ID: 201277

Date of Analysis: 02-24-2006

Approved by:

A blue ink signature of Dr. Harriet Burge, written in a cursive style.

Dr. Harriet Burge  
Director of Aerobiology

A blue ink signature of Dr. David A. Bell, written in a cursive style.

Dr. David A. Bell  
Laboratory President

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This coversheet is included with your report in order to comply with AIHA and ISO accreditation requirements.

For clarity, we report the number of significant digits as calculated; but, due to the nature of this type of biological data, the number of significant digits that is used for interpretation should generally be one or two. All samples were received in acceptable condition unless noted in the Report Comments portion in the body of the report. Due to the nature of the analyses performed, field blank corrections of results is not a standard practice. The results relate only to the items tested.

Environmental Microbiology Laboratory, Inc. ("the Company") shall have no liability to the client or the client's customer with respect to decisions or recommendations made, actions taken or courses of conduct implemented by either the client or the client's customer as a result of or based upon the Test Results. In no event shall the Company be liable to the client with respect to the Test Results except for the Company's own willful misconduct or gross negligence nor shall the Company be liable for incidental or consequential damages or lost profits or revenues to the fullest extent such liability may be disclaimed by law, even if the Company has been advised of the possibility of such damages, lost profits or lost revenues. In no event shall the Company's liability with respect to the Test Results exceed the amount paid to the Company by the client therefor.

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Document Number: 200091 - Revision Number: 4

**Environmental Microbiology Laboratory, Inc.**  
 1150 Bayhill Dr., Suite 100, San Bruno, CA 94066  
 (650) 829-5800 Fax (650) 829-5852 www.emlab.com

Client: CDM (Camp Dresser & McKee, Inc.)  
 C/O: Mr. Roger Olson  
 Re: Illinois River Project

Date of Sampling: 02-02-2006  
 Date of Receipt: 02-09-2006  
 Date of Prep: 02-09-2006  
 Date of Analysis: 02-11-2006  
 Date of Report: 02-23-2006

### Bacterial Identification Report

Location:	LAL 1-A-2
Comments (see below)	None
Sample type	Water
	MPN* / unit
Total Coliform	7900
Fecal Coliform	0.5
<i>E. coli</i>	< 0.2
<i>Enterococcus</i> Group	11, 000
<i>Salmonella</i> species	18
<i>Staphylococcus aureus</i>	< 0.2
Sample size	100ml
Unit	MPN* / 100ml

\*MPN = Most probable number

<i>Campylobacter</i> species	< 0.2
Sample size	150 ml
Unit	100 ml

\*\*CFU = Colony forming unit

### Comments:

MPN Method for Total Coliform, Fecal Coliform and *E. coli*: SM chapter 9221 B/E/F., 20th edition.

MPN Method for *Enterococcus* Group: SM chapter 9230B., 20th edition.

MPN Method for *Staphylococcus aureus*: Adaptation of SM chapter 9213B., 20th edition.

MPN method for *Salmonella* species: SM chapter 9260B., 20th edition.

*Campylobacter* identification method: Modification of BAM chapter 7, March 2001.

### Note

1. MPN method: Minimum detection limit for liquid samples is <2MPN/100ml.

**Interpretation of results is left to the company/ or persons who conducted the fieldwork.**

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### Bacterial Identification Report

Location:	LAL 2-A-2
Comments (see below)	None
Sample type	Water
	MPN* / unit
Total Coliform	1.1
Fecal Coliform	< 0.2
<i>E. coli</i>	< 0.2
<i>Enterococcus</i> Group	50
<i>Salmonella</i> species	< 0.2
<i>Staphylococcus aureus</i>	< 0.2
Sample size	100ml
Unit	MPN* / 100ml

\*MPN = Most probable number

<i>Campylobacter</i> species	< 0.2
Sample size	150 ml
Unit	100 ml

\*\*CFU = Colony forming unit

### Comments:

MPN Method for Total Coliform, Fecal Coliform and *E. coli*: SM chapter 9221 B/E/F., 20th edition.

MPN Method for *Enterococcus* Group: SM chapter 9230B., 20th edition.

MPN Method for *Staphylococcus aureus*: Adaptation of SM chapter 9213B., 20th edition.

MPN method for *Salmonella* species: SM chapter 9260B., 20th edition.

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### Bacterial Identification Report

Location:	LAL 3-A-2
Comments (see below)	None
Sample type	Soil
	MPN* / unit
Total Coliform	3300
Fecal Coliform	17
<i>E. coli</i>	0.2
<i>Enterococcus</i> Group	330
<i>Salmonella</i> species	< 0.2
<i>Staphylococcus aureus</i>	< 0.2
Sample size	35 g
Unit	MPN* / gram

\*MPN = Most probable number

<i>Campylobacter</i> species	< 0.2
Sample size	35 g
Unit	MPN* / gram

\*\*CFU = Colony forming unit

### Comments:

MPN Method for Total Coliform, Fecal Coliform and *E. coli*: SM chapter 9221 B/E/F., 20th edition.

MPN Method for *Enterococcus* Group: SM chapter 9230B., 20th edition.

MPN Method for *Staphylococcus aureus*: Adaptation of SM chapter 9213B., 20th edition.

MPN method for *Salmonella* species: SM chapter 9260B., 20th edition.

*Campylobacter* identification method: Modification of BAM chapter 7, March 2001.

### Note

1. MPN method: Minimum detection limit for solid samples is <0.2MPN/g

Solid data are reported per gram of wet weight

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### Bacterial Identification Report

Location:	LAL 3-B-2
Comments (see below)	None
Sample type	Soil
	MPN* / unit
Total Coliform	54
Fecal Coliform	1.1
<i>E. coli</i>	< 0.2
<i>Enterococcus</i> Group	4.9
<i>Salmonella</i> species	< 0.2
<i>Staphylococcus aureus</i>	< 0.2
Sample size	35 g
Unit	MPN* / gram

\*MPN = Most probable number

<i>Campylobacter</i> species	< 0.2
Sample size	35 g
Unit	MPN* / gram

\*\*CFU = Colony forming unit

### Comments:

MPN Method for Total Coliform, Fecal Coliform and *E. coli*: SM chapter 9221 B/E/F., 20th edition.

MPN Method for *Enterococcus* Group: SM chapter 9230B., 20th edition.

MPN Method for *Staphylococcus aureus*: Adaptation of SM chapter 9213B., 20th edition.

MPN method for *Salmonella* species: SM chapter 9260B., 20th edition.

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### Bacterial Identification Report

Location:	LAL 1-A-8
Comments (see below)	None
Sample type	Water
	MPN* / unit
Total Coliform	18,000
Fecal Coliform	11
<i>E. coli</i>	< 0.2
<i>Enterococcus</i> Group	24,000
<i>Salmonella</i> species	< 0.2
<i>Staphylococcus aureus</i>	< 0.2
Sample size	100ml
Unit	MPN* / 100ml

\*MPN = Most probable number

<i>Campylobacter</i> species	< 0.2
Sample size	150 ml
Unit	100 ml

\*\*CFU = Colony forming unit

### Comments:

MPN Method for Total Coliform, Fecal Coliform and *E. coli*: SM chapter 9221 B/E/F., 20th edition.

MPN Method for *Enterococcus* Group: SM chapter 9230B., 20th edition.

MPN Method for *Staphylococcus aureus*: Adaptation of SM chapter 9213B., 20th edition.

MPN method for *Salmonella* species: SM chapter 9260B., 20th edition.

*Campylobacter* identification method: Modification of BAM chapter 7, March 2001.

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### Bacterial Identification Report

Location:	FAC 01A-DUST
Comments (see below)	None
Sample type	Dust
	MPN* / unit
Total Coliform	1, 300
Fecal Coliform	1. 300
<i>E. coli</i>	1, 300
<i>Enterococcus</i> Group	28. 000
<i>Salmonella</i> species	2, 800
<i>Staphylococcus aureus</i>	< 0.2
Sample size	100ml
Unit	MPN* / 100ml

\*MPN = Most probable number

<i>Campylobacter</i> species	< 0.2
Sample size	150 ml
Unit	100 ml

\*\*CFU = Colony forming unit

### Comments:

MPN Method for Total Coliform, Fecal Coliform and *E. coli*: SM chapter 9221 B/E/F., 20th edition.

MPN Method for *Enterococcus* Group: SM chapter 9230B., 20th edition.

MPN Method for *Staphylococcus aureus*: Adaptation of SM chapter 9213B., 20th edition.

MPN method for *Salmonella* species: SM chapter 9260B., 20th edition.

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